

REMARKS

status of the claims:

Claims 1-20 are pending and ready for further action on the merits. Reconsideration is respectfully requested in light of the following remarks.

Rejections under 35 USC §103

Claims 1-20 are rejected under 35 USC §103(a) as being unpatentable over Suga '242 (JP 2001-075242 in view of its English Language Abstract, or Suga '803 (US Patent No. 6,461,803)) in view of Akao '584 (US Patent No. 5,827,584). Suga '803 is the US Patent that corresponds to Suga '242 (i.e., they are from the same patent family). Accordingly, the Examiner refers to Suga '803 in the Office Action of January 20, 2004.

Suga '803 is not available as prior art under 35 USC §103(c) because Suga '803 and the instant invention were commonly owned at the time that the later invention was made.

Applicants note that the publication date for Suga '242 is March 23, 2001 whereas the instant invention has a filing date of September 28, 2001 with priority documents dated September 29, 2000 (JP 2000-299230 and JP 2000-299231) and April 3, 2001 (JP 2000-104710). Thus, Applicants herein submit certified English translations of the priority documents with the date September 29, 2000, which fully supports the claims in the instant invention.

Accordingly, Suga '242 is also not available as prior art. Because neither Suga '803 nor Suga '242 are available as prior art, the only reference left is Akao '584. Akao '584 simply fails to disclose the elements of the instant invention. In particular, Akao '584 fails to disclose all the features of claim 1. Akao '584 fails to disclose or suggest a red-sensitive, blue-sensitive or green-sensitive silver halide emulsion layer. Thus, a proper *prima facie* case of obviousness has not been presented. Withdrawal of the rejection is warranted and respectfully requested.

With the above remarks and amendments, Applicants believe that the claims, as they now stand, define patentable subject matter such that passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

If any questions remain regarding the above matters, please contact Applicant's representative, T. Benjamin Schroeder (Reg. No. 50,990), in the Washington metropolitan area at the phone number listed below.

Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), Applicants respectfully petition for a three (3) month extension of time for filing a response in connection with the present application. The required fee of \$950.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By   
Marc S. Weiner, #32,181

*BS*  
MSW/TBS/mua  
**0042-0457P**

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

Attachments: Verified Translations of Priority Documents JP 2000-299230 and JP 2000-299231